

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Pasadena Avenue Monterey Road Committee for variance of General Order 143B and authority to explore and enter into negotiations for consideration and implementation pursuant to Public Utilities Code (PUC) §§ 1202, 7604 as a pilot project as permitted by SB 1491.

Application 03-01-013
(Filed January 16, 2003)

Application of the Pasadena Avenue Monterey Road Committee and City of South Pasadena for Variance of General Order 75-C.

Application 03-07-049
(Filed July 25, 2003)

In the Matter of the Application of the City of South Pasadena for Approval of Ordinance 2121 Relating to Limitations of Train Speeds Pursuant to Section 7658 of the California Public Utilities Code.

Application 03-07-050
(Filed July 25, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PUBLIC PARTICIPATION HEARING
AND LIMITED EVIDENTIARY HEARING,
AND REQUIRING SUBMISSION OF DOCUMENTS**

Background

These applications are among a series of applications related to the construction of the Los Angeles to Pasadena Blue Line light rail system.¹ Unlike the other applications, which were filed by the Los Angeles to Pasadena Metro Blue Line Construction Authority (Construction Authority) for permission to construct a number of crossings for the light rail system, these applications were filed by a community group in South Pasadena, Pasadena Avenue Monterey Road Committee (PAMRC), and the City of South Pasadena (City). Application (A.) 03-01-013 requests that variances from some of the requirements of General Order (GO) 143-B be granted to eliminate the sounding of horns or other audible warning devices by Gold Line trains in the City. A.03-07-049 requests a variance from GO 75-C to limit or eliminate the sounding of bells on the crossing gates at all eight South Pasadena at-grade crossings of the Gold Line. A.03-07-050 requests, pursuant to Pub. Util. Code § 7658, that the Commission approve the City's Ordinance 2121, which, among other things, would impose a speed limit of 20 miles per hour on Gold Line trains in the City.

After written testimony had been distributed for the evidentiary hearing scheduled for June 2, 2004, the City, The Los Angeles County Metropolitan Transportation Authority (LACMTA), and Construction Authority (settling parties) entered into a settlement agreement covering all three of these consolidated proceedings.² Pursuant to Rule 51.1 of the Commission's Rules of

¹ Since the initial applications were filed, the line has been renamed the Gold Line. That name will be used here.

² The Administrative Law Judge (ALJ) took the evidentiary hearing off calendar pending review of the proposed settlement.

Practice and Procedure (Rules),³ the settling parties filed a Motion of the City of South Pasadena, Los Angeles to Pasadena Metro Blue Line Construction Authority and Los Angeles County Metropolitan Transportation Authority for Adoption of Proposed Settlement on April 1, 2004. PAMRC is not a party to the settlement and contests it.

An ALJ Ruling dated April 8, 2004 set a schedule for the filing of comments on the proposed settlement pursuant to Rules 51.4–51.6. PAMRC filed comments on April 30, 2004, and the settling parties filed reply comments on May 17, 2004. On May 28, 2004, PAMRC submitted, without prior authorization, a sur-reply to the reply comments of the City.⁴ By ALJ Ruling dated June 7, 2004, PAMRC's sur-reply was accepted for filing and PAMRC was allowed to file a response to the comments of the Construction Authority and LACMTA. This response was filed June 22, 2004.

Public Participation Hearing

In view of the longstanding public interest in the construction and operation of the Gold Line, the Commission will hold a public participation hearing (PPH) on Tuesday, August 24, 2004 at 6:30 p.m. at the South Pasadena Library Community Room, 1115 El Centro Street, South Pasadena, CA 91030.

³ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations, and citations to sections refer to the Public Utilities Code.

⁴ In this document, PAMRC noted that it had not been served with the comments of the Construction Authority or LACMTA. Both agencies then promptly served their comments on PAMRC's representative.

Limited Evidentiary Hearing

PAMRC's comments raise a number of issues related to the Gold Line project. Some are not relevant to these applications; some are purely legal in nature; some present questions of policy; some are not entirely clear. PAMRC has, however, made a showing that there are contested factual issues related to the effectiveness of the settlement in reducing noise impacts on South Pasadena residents from Gold Line operations. Therefore, in accordance with Rule 51.6, a limited evidentiary hearing (LEH) addressing the contested factual issues in the proposed settlement will be held before ALJ Anne E. Simon, on Wednesday, August 25, 2004, at 9:30 a.m. in the Commission Courtroom, 320 West 4th Street, Los Angeles, CA 90013.

The limited issues to be addressed at the LEH are:

1. The extent to which the proposed settlement reduces or mitigates noise levels in South Pasadena from the current operation of the Gold Line;
2. The safety considerations relevant to the noise reduction or mitigation provisions of the proposed settlement.

No testimony or evidence on other issues will be allowed. The LEH will be limited to one day in duration. Each side (the settling parties and PAMRC) shall serve written testimony not later than Thursday, August 19, 2004.⁵ Each side (the settling parties and PAMRC) will be allowed two and one-half hours for its presentation at the LEH, to be allocated among additional direct testimony, cross-examination, and re-direct examination, as each side chooses. Relevant

⁵ Written testimony is to be served on the parties on the service list, but not filed with the Commission's Docket Office.

documentary evidence may be introduced as part of presentations at the LEH. (See Rule 51.6.)

Concurrent closing briefs must be served and filed not later than Friday, September 10, 2004. Permission of the ALJ is required to file a reply brief and must be requested by a motion made in accordance with Rule 45.

Documents to be Submitted

The exposure of South Pasadena residents to noise from Gold Line operations is a central issue in these proceedings. In order to evaluate the proposed settlement, some information about operational Gold Line noise levels is required. In testimony previously distributed by LACMTA, studies and analyses of operational noise levels are referred to, but not provided. The information in these studies should be made available prior to the LEH. The Construction Authority and/or LACMTA (depending on which agency is custodian of the material) must serve on all parties and the ALJ the relevant documents not later than August 4, 2004.⁶ The required information is that contained in the studies referred to at the following points in the testimony of Darren Nielsen, distributed February 13, 2004:⁷

1. **page (p.) 3**, Answer (A) to question (Q), "What is the purpose of your testimony?"

⁶ Consistent with the discussion in the all party conference call July 22, 2004, the information (tests, test results, measurements, etc.) must be made available. The parties should endeavor to make available the entire document containing the information, but this Ruling does not address any potential claims of privilege relating to any particular documents or portions of documents.

⁷ No more specific description or identification of the studies is provided by the testimony.

- ATS noise measurements conducted for the Construction Authority, with respect to Gold Line operations within the City, including an evaluation of the effects of certain changes in the deployment and operation of Gold Line facilities that MTA has implemented . . . to mitigate the noise impacts of Gold Line operations.
2. **p. 6**, A to Q, “Has further assessment of noise impacts been done since the Gold Line began revenue operations in July, 2003?”
- short- and long-term noise measurements taken at various locations in the City.
3. **p. 10**, A to Q, “Please comment on Mr. Bayne’s conclusion . . .”
- recent measurements of the light rail vehicles, audible warning devices, and crossing bells.
4. **p. 15**, A to Q, “In the context of both the URS reports and ATS’ more recent noise measurements, what conclusions do you draw . . .”
- “our preliminary findings.”
5. **p. 19**, A to Q, “MTA witness Khawani also has offered testimony about further changes . . . Do you have any recommendations . . .?”
- subsequent tests on sound levels from the audible warnings on the LRV.

Schedule

August 4, 2004	Submission of documents by MTA and/or Construction Authority
August 19, 2004	Distribution of written testimony for LEH
August 24, 2004 6:30 p.m.	PPH, South Pasadena Library Community Room, 1115 El Centro Street, South Pasadena, CA 91030
August 25, 2004 9:30 a.m.	LEH, Commission Courtroom, 320 West 4 th Street, Los Angeles, CA 90013
September 10, 2004	Closing briefs served and filed

IT IS RULED that:

1. An evidentiary hearing limited to the issues of the extent to which the proposed settlement reduces or mitigates noise levels in South Pasadena from the current operation of the Gold Line and the safety considerations relevant to the noise reduction or mitigation provisions of the proposed settlement will be held August 25, 2004, as set forth above.
2. A public participation hearing will be held August 24, 2004, as set forth above.
3. Not later than August 4, 2004, the Construction Authority or LACMTA (as appropriate for each document) shall serve on all parties and the ALJ the documents identified above.
4. The schedule for the balance of this proceeding is as set forth above.

Dated July 23, 2004, at San Francisco, California.

/s/ ANNE E. SIMON
Anne E. Simon
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Public Participation Hearing and Limited Evidentiary Hearing, and Requiring Submission of Documents on all parties of record in this proceeding or their attorneys of record.

Dated July 23, 2004, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.